

**UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In The Matter Of:

Digital Audio Broadcasting Systems)

And Their Impact On The Terrestrial)

Broadcasting Service)

Docket 99-325

**REPLY TO OPPOSITIONS
OF THE NATIONAL ASSOCIATION OF BROADCASTERS
AND IBIQUITY CORPORATION
TO THE PETITION FOR RECONSIDERATION
BY THE AMHERST ALLIANCE ET AL.**

**REPLY FILED BY
THE AMHERST ALLIANCE ET AL. :**

**THE AMHERST ALLIANCE, VIRGINIA CENTER FOR THE PUBLIC
PRESS (VCP), REC NETWORKS, CITIZENS MEDIA
CORP/ALLSTON-BRIGHTON FREE RADIO, *GREENHOUSE NEWS*
AND *JAMRAG* MAGAZINE, ROGUE COMMUNICATION,
KBKH-FM, AURICLE COMMUNICATIONS (Licensee of WFMU-FM
and WXHD-FM), KIBP-LP, KOL AMI HAVURAH (Licensee of
WVJW-LP), CHALK HILL EDUCATIONAL MEDIA, WILW-AM,
BEATRADIO, SPRYEX COMMUNICATION, KIWANIS CLUB OF
WEST VISALIA, JOHN ROBERT BENJAMIN, JONATHAN E. GRANT,
JAMES JASON WENTWORTH, KEVIN JOHNSTON, ERICH LOEPKE,
JOHN ANDERSON, KYLE DRAKE, CHARLES HUTTON, BILL BLEW,
GERALD JOHN MEHRAB WA2FNQ, NICKOLAUS LEGGETT N3NL,
MATTHEW HAYES, REVEREND ROBERT CHRYSAFIS KC8GPD,
RICHARD H. SHIVERS KB3FGJ, CHRISTOPHER T. BYDALEK,
WESLE ANNEMARIE DYMOKE, JACK FLANAGAN,
BILL BEYRER, W. REECE NEWTON, STEPHEN C. BIRMINGHAM,
ROBERT CHANEY, ROD SEGO AND JOHN DAVIDSON**

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1. IDENTIFICATION OF THE PARTIES

THE AMHERST ALLIANCE, VIRGINIA CENTER FOR THE PUBLIC PRESS, and the dozens of other parties to the October 25, 2002 Petition For Reconsideration in this Docket, hereby submit their Reply to Oppositions filed by THE NATIONAL ASSOCIATION OF BROADCASTERS (NAB) and iBIQUITY CORPORATION. The Oppositions in question were apparently received by the FCC on February 19, 2002, and were posted on the FCC's Electronic Comment Filing System on February 25, 2002.

Our Petition originally had 34 parties. However, due to 5 retroactive signatories, the total number of Petitioners is now 39.

These parties can be characterized as follows:

- 5 advocacy and/or education groups, including Amherst and VCPP**
- 2 broadcast engineers**
- 1 electrical engineer**
- 1 Full Power Commercial radio station**
- 1 Licensee for 2 Full Power Non-Commercial Educational radio stations**
- 3 Low Power FM radio stations**
- 15 aspiring Low Power FM or Low Power AM Licensees,**
 - 5 of whom are currently Part 15 broadcasters**
- 11 concerned citizens**

The names of these Petitioners are listed in 6 pages at the end of this filing.

Their number and diversity certainly: (A) constitutes further evidence against the FCC's conclusion, in its IBOC approval Order of October 11, 2002, that there is uniform support for IBOC Digital Radio within the broadcasting community;

and (B) confirms the pattern, displayed throughout the Commission's consideration of IBOC Digital Radio in FCC Docket 99-325, of adamant opposition to IBOC by virtually all members of the radio-listening public who are knowledgeable enough to form and express an opinion about it.

We note that 7 of the parties to our Petition have been sufficiently motivated, following the approval of "interim" IBOC broadcasting, to file their own, independent statements in this Docket . These Petitioners are as follows:

GERALD JOHN MEHRAB of Northport, New York: a broadcast engineer
VIRGINIA CENTER FOR THE PUBLIC PRESS of Richmond, Virginia:
a Part 15 broadcaster, Internet broadcaster and aspiring Low Power FM Licensee
KOL AMI HAVURAH of Benwood, West Virginia: Licensee of WVJW-LP
JOHN ANDERSON of Madison, Wisconsin: a radio journalist, Internet Broadcaster and aspiring Low Power FM Licensee
KYLE DRAKE of Plymouth, Minnesota: a broadcast engineer and aspiring Low Power AM Licensee
CHARLES HUTTON of Seattle, Washington: an electrical engineer who has worked on the ODFM technology that he calls "central to IBOC"
JAMES JASON WENTWORTH of Fairbanks, Alaska: a Part 15 broadcaster and aspiring Low Power AM Licensee

2. OTHER CRITICS OF THE FCC'S OCTOBER 11, 2002 IBOC APPROVAL ORDER

The 39 parties to our Petition For Reconsideration also stress that they do not stand alone in expressing serious concerns regarding the October 11, 2002 decision to approve "interim", and essentially unregulated, IBOC broadcasting.

Numerous parties, including many rank-and-file citizens, expressed total or Partial opposition to IBOC broadcasting, On The Record, during the Docket 99-325

deliberations which preceded the “interim” approval Order. However, even after issuance of the “interim” IBOC approval Order, xx parties besides the Petitioners have submitted filings in this Docket which are critical of IBOC.

(A) *Engineers In Opposition.* 3 of these independent critics have been broadcasting engineers:

PAUL W. SMITH of Sarasota, Florida
FREDERICK R. VOBBE of Lima, Ohio
SCOTT TODD of Cambridge, Minnesota

In addition, JOHN PAVLICA, JR. of Toledo, Ohio has filed in this Docket an independent Motion To Dismiss [the “interim” IBOC approval Order].

When added to the two engineers who are parties to our Petition For Reconsideration, KYLE DRAKE of Minnesota and CHARLES HUTTON of Washington State, “interim” IBOC broadcasting in this Docket has been opposed by a total of 5 broadcasting engineers -- plus 1 electrical engineer, CHARLES HUTTON of Washington, who has worked on the ODFM technology that is central to IBOC.

(B) *Licensed Radio Stations In Opposition.* 2 Full Power Licensees and 3 Low Power FM Licensees are parties to our Petition. They are:

KBKH-FM of Shamrock, Texas
AURICLE COMMUNICATIONS of Jersey City, New Jersey (Licensee of WFMU and WXHD)
KOL AMI HAVURAH of Benwood, West Virginia (Licensee of WVJW-LP)
KIBP-LP of Padre Island, Texas
CHALK HILL EDUCATIONAL MEDIA of Clark Hill, Texas

However, it is our understanding that *7 additional* Full Power stations are today filing separate, supportive and independent Replies to the NAB and iBiquity Oppositions. These Replies, which are fully consistent with the October 25 Petitioners' position on IBOC, are now being filed by the following "commercial community stations" in Virginia:

WAMF, Richmond, Virginia
WFTH, Richmond, Virginia
WCLM, Richmond, Virginia
WHAN, Ashland, Virginia
WLSA, Louisa, Virginia
WSVS, Crewe, Virginia
WDVA, Danville, Virginia

This development brings to *10* -- or 11, if WFMU and WXHD of New Jersey are counted separately -- the total number of *licensed* radio stations which: (i) have filed in this Docket documents which oppose "interim" IBOC broadcasting; and (b) have submitted these filings since the IBOC approval Order October 11.

This total number of *licensed* radio stations does not include the 15 aspiring Low Power FM or Low Power AM Licensees who are parties to our Petition.

These 15 aspiring Licensees include 5 Part 15 broadcasters:

CITIZENS MEDIA CORP/ALLSTON-BRIGHTON FREE RADIO of Boston, Massachusetts
WILW-AM of Medina, New York
KEVIN JOHNSTON of Johnson City, New York
REVEREND ROBERT CHRYSAFIS KC8GPD of Glen Gardner, New Jersey
JAMES JASON WENTWORTH of Fairbanks, Alaska

In addition, although it is listed elsewhere as an “advocacy and/or educational group”, VIRGINIA CENTER FOR THE PUBLIC PRESS, in Richmond, Virginia is *also* a Part 15 broadcaster, Internet broadcaster and aspiring Low Power FM Licensee.

The other aspiring Low Power FM or Low Power AM Licensees are as follows:

WESLE ANNEMARIE DYMOKE of Providence, Rhode Island
BILL BLEW of Villas, New Jersey
JOHN ROBERT BENJAMIN of Kane, Pennsylvania
SPRYEX COMMUNICATION of Hamilton, Ohio [which also manufactures and distributes RADUGA software]
JONATHAN E. GRANT of Kokomo, Indiana
JOHN ANDERSON of Madison, Wisconsin
BEATRADIO of Minneapolis, Minnesota
THE KIWANIS CLUB OF WEST VISALIA of West Visalia, California
MATTHEW HAYES of Portland, Oregon
CHRISTOPHER T. BYDALEK of Anchorage, Alaska

In addition, although it is listed elsewhere as an “advocacy and/or educational group”, REC NETWORKS of Mesa, Arizona is also an Internet broadcaster and aspiring Low Power FM Licensee.

It should also be noted that the latest total of 10 (or 11) licensed radio stations, On The Record against IBOC since October 11, does *not* include several stations -- such as KINGS BAY RADIO of Kings Bay, Georgia -- who filed documents critical of IBOC implementation prior to the October 11 IBOC approval Order.

(B) *Concerned Citizens.* 11 concerned citizens -- some, but not all, of whom are also “ham” radio operators -- are parties to the October 25 Petition For Reconsideration.

In addition, however, 8 other individuals have independently filed documents critical of IBOC since October 11. Some of these filings provide reports, in some cases firsthand, of IBOC interference with existing radio stations. We particularly recommend the February 11 Reply Comments filed by FREDERICK R. VOBBE, a broadcast engineer in Toledo, Ohio.

(C) *A Major Filing Outside Of FCC Docket 99-325.* Apart from all of the aforementioned submissions in FCC Docket 99-325, since October 11, we further note the submission on January 24 of a related Petition For Rulemaking by LEONARD KAHN, P.E., of KAHN COMMUNICATIONS in New York City.

This Petition For Rulemaking proposes the development of new standards for the evaluation of new technologies by the FCC -- with the new standards, once adopted, being applied to the evaluation of IBOC Digital Radio technology. In the meantime, the Petition urges a Stay of the “interim” IBOC approval Order, until such time as the proposed technology evaluation standards have been adopted and are ready to be applied.

(D) *The Total Array Of IBOC Opponents: October 11, 2002 to the Present.* Adding together all of the IBOC critics we have mentioned above, including KAHN COMMUNICATIONS and other parties who are not affiliated with the October 25 Petition For Rulemaking, we can see that the *total array* of currently active IBOC critics is as follows:

- 5** advocacy and/or educational groups
- 7** broadcast engineers
- 1** electrical engineer
- 8** Full Power commercial radio stations
- 1** Licensee for **2** Non-Commercial Educational radio stations
- 3** Low Power FM radio stations
- 15** aspiring Low Power FM or Low Power Licensees,
 5 of whom are currently Part 15 broadcasters
- 19** concerned citizens

While not every one of these parties has explicitly endorsed the October 25 Petition For Reconsideration, by THE AMHERST ALLIANCE Et AL., *all* of them have explicitly questioned the Commission's rush to IBOC implementation, in the process reporting and/or predicting serious negative consequences as a result.

These **59** parties -- whose ranks include **7** broadcast engineers, **1** electrical engineer and **14** licensed radio stations -- are too numerous, too diverse and, in some cases, too well-credentialed to be dismissed as a handful of crazed, cranky and/or otherwise unreasonable discontents. Rather, we are a substantial body of dissenters whose profound reservations regarding IBOC have been dismissed too lightly by the Commission, if not ignored completely. Our ranks are now growing, and we deserve to be heard *before* the current version of the IBOC version of Digital Radio becomes set in concrete over time -- and *before* irreparable harm is done to both currently established radio stations and prospective Low Power FM or Low Power AM radio stations.

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3. IS OUR PETITION “FRIVOLOUS”?

Both the NAB’s Opposition and iBiquity’s Opposition call our Petition For Reconsideration “frivolous”. iBiquity even calls it “duplicitous”.

The NAB’s Opposition adds that we are attempting to “throw sand into the gears” of In Band On Channel (IBOC) Digital Radio implementation.

Of course we are! We are opponents of IBOC implementation -- and that’s what opponents do. Opponents defeat an adversary where possible, and delay or impede the adversary’s advance as a “fallback”. This is, in fact, what the NAB did to some of us on this Petition, repeatedly, when we were fighting to establish licenses for Low Power FM radio stations.

Asserting procedural rights, in order to delay an adverse development, is not in itself “frivolous”. It is, indeed, a time-honored, court-accepted tactic of environmental groups for raising the cost of an opposed project and thereby compelling the project sponsors to either retreat or come to the negotiating table.

A delaying tactic becomes “frivolous” *only* when and if the requested delay serves no valid, overriding public interest -- *and/or* when and if the asserted procedural rights are groundless or imaginary. Neither is the case here.

The NAB’s colorful metaphor, then, raises the wrong question. The issue is not whether we are “throwing sand”, but whether or not we have the right to do so. We believe we do. In fact, counsel believes it is a duty of “diligent representation”.

3. CAN IBOC BE “FIXED”?

The NAB, in its Opposition, states that: “Nothing in the Petition ... evinces an intention to make better the digital radio service for the listening public.”

It is true that we have basically tried to pull the “Stop!” cord on a runaway train. This we saw as the *only* way to stop that train. However, once the runaway train has finally rolled to a stop, most of the parties to our Petition are willing to keep their minds open regarding what happens next with the train.

It may be useful to cite *some* of the factors which led the Petitioners to adopt the approach they did:

(A) *With the option of seeking a judicial injunction in mind, we did not want to be caught “slumbering on our rights”.* The Petitioners have not, as yet, decided whether they are both willing and able to pursue a judicial injunction -- to suspend the implementation of IBOC, conditionally and/or permanently -- in the event that our Petition For Reconsideration is rejected, or else ignored for so long that we can persuade a court that a functional rejection has occurred. Nevertheless, from the outset of our planning, we have striven to preserve the *option* of seeking temporary and permanent injunctions against IBOC implementation -- *if* the FCC remains completely unresponsive to our frequently expressed concerns.

Given the importance that we assigned to preserving this option, we considered ourselves obligated to file a Petition For Reconsideration.

If we had not done this, the NAB and/or others could have argued in court that we had not “exhausted our administrative [regulatory] remedies” before coming to the court for relief. In addition, since injunctions are products of the *equity* branch of common law, the NAB and/or others could have quoted to our detriment the old adage of equity that “Equity protects only those who do not slumber on their rights.”

Unfortunately, once we accepted this fact of legal life, we then lacked the “wiggle room” which might have been present in a Petition For Rulemaking, or even in a set of Written Comments. We were bound, by the very nature of a Petition For Reconsideration, to focus primarily on a binary choice: that is, whether to say “Yes” or “No” to the IBOC approval Order. Given that our only choice was “Yes” or “No”, and that “Yes” was out of the question, our Petition understandably emphasized the negative.

(B) *The record in FCC Docket 99-325, so far, has been woefully incomplete as a basis for developing constructive proposals for improvement.* As we have already stressed, in previous filings, the proceedings in FCC Docket 99-325, while lengthy and voluminous, have nevertheless focused in detail *only* on the IBOC version of Digital Radio. In fact, they have basically focused only on the *iBiquity* version of the IBOC version of Digital Radio.

Not only has the Commission failed to seriously consider the Eureka-147 version of Digital Radio, in spite of the fact that most of the developed world uses it -- *and* that, due to recent developments, the “L Band” channel is now, apparently,

free to accommodate it. The Commission has even failed to seriously consider possible improvements of the iBiquity version of the IBOC technology, such as a design change to prioritize audio streams over data streams and/or an attempt to integrate SDR technology into the system.

Other potentially superior new technologies -- involving “smart antennae” and other innovations frequently chronicled by STEPHEN PROVIZER of CITIZENS MEDIA CORP/ALLSTON-BRIGHTON FREE RADIO -- have also been ignored by the Commission, the NAB and iBiquity Corporation alike.

To make matters worse, the Commission has also ignored a Petition For Rulemaking, filed by THE AMHERST ALLIANCE and several other parties to the October 25 Petition For Reconsideration, that sought *comparative and competitive* testing and evaluation of the IBOC and Eureka-147 versions of Digital Radio -- and, perhaps, of other, newer Digital Radio technologies as well.

This Petition For Rulemaking was filed on April 12, 2002 -- almost precisely 6 months before the FCC’s October 11 Order approved “interim” IBOC broadcasting. The Commission proceeded to that vote without ever considering, or even acknowledging the existence of, that relevant and material Petition For Rulemaking.

4 months *after* adoption of the IBOC approval Order, and almost as long after filing of our October 25 Petition For Reconsideration, the Petition For Rulemaking remains in limbo in PRM02MB -- neither Docketed nor dismissed, still unacknowledged and apparently still unconsidered.

Our “bottom line” point, in the present context, is that the Commission’s conscious compilation of a minutely focused information base left the Petitioners with little *publicly accessible knowledge* and/or arguments for *developing* constructive alternatives to the iBiquity version of the IBOC version of Digital Radio technology.

Lacking the financial resources we needed, the Petitioners were not *able* to develop much independent information for developing constructive alternatives to the iBiquity/IBOC technology. Meanwhile, lacking the *resolve* it needed, the Commission was not *willing* to develop much publicly available independent information on alternatives to the iBiquity/IBOC technology -- for use by the citizens it is supposed to serve.

Once again, therefore, the Petitioners were left with a binary choice: that is, the iBiquity version of the IBOC version of Digital Radio technology *or* nothing. The choice before us was “Yes” or “No”, “up or down”. Period.

Given that choice, *and* our awareness of the serious problems posed by the iBiquity version of the IBOC version of Digital Radio technology, we voted “No”. We concluded, and continue to conclude, that *nothing at all* is better than the single technological alternative that the Commission has documented, placed before the public for discussion and adopted.

Like citizens voting down a bond issue, our “No” vote on *this* matter does not commit us to a “No” vote on *everything* that might arise in the future. First, however, the sponsors of the iBiquity/IBOC technology must take the time to develop a more palatable “bond issue” -- *and/or* the Commission must take the time to develop the information to develop constructive alternatives, whether inside or outside the context of IBOC technology *per se*.

We urge the FCC, as it weighs our Petition For Reconsideration, to remember that it is difficult, or impossible, to repair a runaway train while it is still in motion. *First* the “Stop!” cord must be pulled, *and then* folks can look under the hood.

(C) *CAN IBOC BE “FIXED”?* In an attempt to be as constructive as the current circumstances allow, we will answer this question as best we can.

The answer is:

The answer depends upon which of our Petitioners you ask.

The 39 parties to the Petition For Reconsideration are a *coalition*, not a monolith. Some of them would be satisfied with changes that would not satisfy others.

It is safe to say that few of our Petitioners, if any, see any compelling need to adopt the IBOC technology, or any form of Digital Radio for that matter -- particularly if, as is the case today, the technology has been rushed to approval and implementation.

That said, the lack of enthusiasm for Digital Radio by the Petitioners does not mean they cannot *accept* the technology if their concerns about it are addressed effectively. Few of the Petitioners, if any, are opposed to *any* form of Digital Radio under *any* circumstances. The differences between the Petitioners, when they surface at all, arise over which specific circumstances are acceptable.

Basically, the degree of resistance to Digital Radio, among our Petitioners, can be described as three “layers”. Listing these layers in *descending* order of resistance, they are as follows:

(i) *Bedrock IBOC Opponents.* Members of this group would oppose *any* accommodation of *any* form of IBOC Digital Radio technology. However, even members of this group would generally accept Digital Radio *if* Eureka-147, and/or one of the emerging Digital Radio technologies, were substituted for IBOC.

(ii) *iBiquity/IBOC Opponents.* Members of this group might be willing to accept the IBOC version of Digital Radio technology *if* an alternative to the iBiquity system were developed and/or *if* significant improvements, such as a prioritization of audio streams over data streams, were made to the iBiquity system.

(iii) *Low Power Radio Defenders.* Members of this group might well withdraw their opposition to IBOC broadcasting, and perhaps even to the iBiquity/ IBOC version of it, *if* Low Power FM radio stations, as well as the Low Power AM radio stations of the future, were adequately protected against interference from IBOC. To cite an important example, Low Power Radio stations are disproportionately vulnerable to IBOC interference because they have been denied Primary Service Status. Thus, while Full Power radio stations can at least theoretically seek legal relief if IBOC transmissions violate their “protected contours”, Low Power radio stations have no such grounds for seeking *any* kind of legal relief -- even if IBOC transmissions eliminate their signals completely. Since the FCC decided to deny Primary Service Status to Low Power FM radio stations in January of 2000, almost 2 years *before* the approval of “interim” IBOC broadcasts, a case can be made for reconsidering this decision in light of the recent approval of IBOC, with its broadened bandwidths and related increases in radio interference.

5. OTHER MATTERS

We have done our best, within the limits of filing a timely response, to address the major *new* points which have been raised in the NAB and iBiquity Corporation. We have selectively reiterated previous points, from previous filings, but only where we considered them relevant and material to the points newly raised.

As for other matters, we refer the Commission to our October 25, 2002 Petition For Reconsideration and to all other documents which we have submitted, *or* incorporated by reference, in FCC Docket 99-325.

We also commend, for the Commission's careful consideration, all of the numerous other submissions in this Docket by critics of the iBiquity/IBOC Digital Radio technology.

6. CONCLUSIONS

For the reasons set forth herein, we urge the Commission to reject the recommendations of the NAB and iBiquity Corporations -- and to proceed expeditiously with adoption of the October 25, 2002 Petition For Reconsideration.

Adoption of the October 25 Petition will not prevent the possible development and consideration of alternatives to the iBiquity/IBOC technology, and/or improvements in the iBiquity/IBOC technology, and/or even other regulatory changes to *compensate for* the approval of a particular Digital Radio technology.

Adoption of the October 25 Petition For Reconsideration will simply assure that the Commission's future decisions regarding Digital Radio will be based on a more complete, and more legally defensible, foundation.

Respectfully submitted,

Don Schellhardt, Esquire

**Attorney For The 39 Parties To The October 25, 2002 Petition For
Reconsideration In FCC Docket 99-325**

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THE 39 PETITIONING PARTIES

5 Advocacy And/Or Educational Groups:

**THE AMHERST ALLIANCE
Waterbury, CT**

**VIRGINIA CENTER FOR THE PUBLIC PRESS
Richmond, VA**

**REC NETWORKS
Mesa, AZ**

GREENHOUSE NEWS AND JAMRAG MAGAZINE
Ferndale, MI

ROGUE COMMUNICATION
Lake Forest Park, WA

2 Broadcast Engineers:

GERALD JOHN MEHRAB WA2FNQ
Northport, NY

KYLE DRAKE
Plymouth, MN

1 Electrical Engineer:

CHARLES HUTTON
Seattle, WA

1 Full Power Commercial Radio Station::

KBKH-FM
Shamrock, TX

***1 Licensee Of 2 Full Power Non-Commercial Educational
Radio Stations:***

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(Licensee of WFMU-FM and WXHD-FM)
Jersey City, NJ

3 Low Power FM Licensees:

**KOL AMI HAVURAH
(Licensee of WVJW-LP)
Benwood, WV**

**CHALK HILL EDUCATIONAL MEDIA
Chalk Hill, TX**

**KIBP-LP
Padre Island, TX**

***15 Aspiring Low Power FM
Or Low Power AM Licensees:***

(A) 5 Part 15 Broadcasters

**CITIZENS MEDIA CORP/ALLSTON-BRIGHTON FREE RADIO
Boston, Massachusetts**

**WILW-AM
Medina, NY**

**KEVIN JOHNSTON
Johnson City, NY**

**REVEREND ROBERT CHRYSAFIS KC8GPD
Glen Gardner, NJ**

**JAMES JASON WENTWORTH
Fairbanks, AK**

(B) 10 Others

WESLE ANNEMARIE DYMOKE
Providence, RI

BILL BLEW
Villas, NJ

JOHN ROBERT BENJAMIN
Kane, PA

SPRYEX COMMUNICATION
Hamilton, OH

JONATHAN E. GRANT
Kokomo, IN

JOHN ANDERSON
Madison, WI

BEATRADIO
Minneapolis, MN

KIWANIS CLUB OF WEST VISALIA
West Visalia, CA

MATTHEW HAYES
Portland, OR

CHRISTOPHER T. BYDALEK
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**I hereby certify that I have Service Copies of this Reply To
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**iBiquity Corporation, c/o Robert A. Mazer, Esquire at Vinson &
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**Glen Clark & Associates, c/o John Wells King, Esquire at Garvey
Schubert Barer, Washington, DC**

John Pavlica, Jr., Toledo, OH

Leonard Kahn, P.E., of Kahn Communications, New York, NY

Signed: _____
Don Schellhardt, Esquire

Dated: _____
March 5, 2003